

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES**

Friday, December 7, 2018

Department of Health Professions

Henrico, VA

Convening of a Public Hearing on Regulations on Laser Hair Removal

Dr. O'Connor opened the floor at 8:38 AM for a Public Hearing to Receive Comment on the Regulations on Laser Hair Removal.

Ms. Yeatts referred to the copy of written comments from the Virginia Society of Plastic Surgeons which was provided to each member.

There was no other public comment.

The floor closed at 8:39 a.m.

CALL TO ORDER: Dr. O'Connor called the meeting of the Executive Committee to order at 8:40 a.m.

ROLL CALL: Ms. Opher called the roll; a quorum was established.

MEMBERS PRESENT: Kevin O'Connor, MD, President
Lori Conklin, MD, Secretary-Treasurer
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Kenneth Walker, MD

MEMBERS ABSENT: David Archer, MD
Nathaniel Tuck, Jr., DC, Vice-President
Syed Salman Ali, MD

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Director, Discipline
Colanthia Morton Opher, Deputy Director, Administration
Barbara Matusiak, MD, Medical Review Coordinator
Deirdre Brown, Administrative Assistant
David Brown, DC, DHP Director
Elaine Yeatts, DHP Senior Policy Analyst
Erin Barrett, JD, Assistant Attorney General

OTHERS PRESENT: W. Scott Johnson, JD, MSV
Kathy Martin, MSV

EMERGENCY EGRESS INSTRUCTIONS

Dr. O'Connor provided the emergency egress instructions.

APPROVAL OF MINUTES OF AUGUST 3, 2018

Dr. Edwards moved to approve the meeting minutes of August 3, 2018 as presented. The motion was seconded and carried unanimously.

ADOPTION OF AGENDA

Dr. Edwards moved to adopt the agenda as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT

There was no public comment.

DHP DIRECTOR'S REPORT

Dr. Brown reported that there has been a decline in the numbers of opioid-related deaths in Virginia. He said that although the medical examiner's office has not released an official report, the preliminary numbers correlate with PMP statistics showing that opioid prescribing is significantly down. Dr. Brown pointed to the development of the opioid regulations as a major element in the decreased numbers of overdose deaths. He said that the concern expressed by Dr. Walker during the development of the regulations regarding physicians backing away from providing care is being recognized. Both he and Dr. Harp have received communications from patients with possible opioid addiction who are experiencing challenges in finding a practitioner willing to continue their opioid regimen.

Dr. Brown then reported on the legislative proposal for E-Prescribing implementation. He advised that if passed, the proposal will go into effect in 2022. He noted that Dr. Allison-Bryan's work in the opioid crisis has been very valuable. In addition to being an agency representative for interagency efforts, she has spoken in different venues. One of the most recent was a panel hosted by Dr. Bill Hazel at George Mason University where she discussed the direct and indirect effects of the Board of Medicine's regulations.

Dr. Brown also provided an update on the expansion of Medicaid. He noted that the expansion will facilitate more medication-assisted treatment of opioid addiction by waived physicians, nurse practitioners and physician assistants.

Dr. Brown concluded his report by noting that the rollout for "Competencies in Pain Management" to medical schools, pharmacy schools, dental and physician assistant schools is in full swing. VCU plans to take the competencies and create an online module program for each discipline. More to come on this initiative at a future date.

PRESIDENT'S REPORT

Dr. O'Connor reported that he attended a DHP Workgroup on Conversion Therapy. No action is required of the Board of Medicine at this time.

EXECUTIVE DIRECTOR'S REPORT

Revenue and Expenditures

Dr. Harp reported that the Board is still solid in its budgeting, revenues, and expenditures.

This report was for informational purposes only and did not require any action.

Enforcement – APD – HPMP Program Costs

Dr. Harp pointed out that Medicine is still the leader in terms of the hours provided by Enforcement and APD. The number of participants in HPMP is smaller than it has been in the past.

Discussion regarding the hours of Enforcement and APD included that Medicine cases are more complex and require more investigative effort to elucidate the facts in a case.

NEW BUSINESS

Chart of Regulatory Actions

Ms. Yeatts reviewed the Chart of Regulatory Actions as of November 30, 2018. She emphasized 18VAC85-20 Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic and the amendment for electronic renewal notices.

This report was for informational purposes only.

Summary of Legislative Proposals Approved for Submission to the 2019 General Assembly by DHP

Ms. Yeatts briefly reviewed 7 legislative proposals submitted by DHP for the next Session of the General Assembly. Ms. Yeatts specifically pointed out a bill that adds 10 exemptions to the E-Prescribing of opiates. She also noted that the amendment included a waiver of a year for demonstrated economic hardship or technological limitations not reasonably within the control of the prescriber.

Ms. Yeatts also explained the intent of the amendments to Code of Virginia §54.1-3002 and 54.1-3603 that stagger the terms of expiration for some board member appointments, including the Board of Medicine.

This report was for informational purposes only and did not require any action.

Recommendation of the Ad Hoc Committee on Controlled Substances Continuing Education

Dr. O'Connor advised that the Ad Hoc met to discuss the recommended requirements. During the discussion, the members agreed that not all practitioners have the time to read and understand the laws and regulations.

Dr. Harp said he estimated that 10-15% of prescribers have read the regulations. He said that the main communication about opioids the Board receives from patients is that their practitioner has reduced their opioid in a manner that is not effectively managing their pain. In some instances, patients are being discharged from the practice with 30 days notice. Dr. Harp stated that in 2016, the CDC released guidelines for opioids from which some practitioners inferred that 90 MME was the ceiling for treating pain. Despite the fact that the Board's regulations emphasize 120 MME, do not have an established ceiling, and only require thorough documentation for higher doses, practitioners may be confused about how they can safely treat patients and avoid running afoul of the Board's regulations.

Dr. Conklin noted that she is aware of situations in which a nurse practitioner or physician assistant issues a prescription for a lesser amount than the previous practitioner wrote, so the patients may be receiving prescriptions with less effect than needed.

Dr. Brown announced that plans are in place to educate nurse practitioners early next year and to do so with the physician assistants as well.

Dr. O'Connor then reviewed the Committee's 2-hour "package" recommendation:

- Reading the Board of Medicine Regulations Governing Prescribing Opioids and Buprenorphine
- Reading the Board's FAQ's on Opioids and Buprenorphine
- Viewing the PMP Video on NarxCare Generic Navigation
- Taking the Stanford University course on "How to Taper Patients Off of Chronic Opioid Therapy" which provides 1.25 hours of Category I AMA PRA credit.

The 2-hour "package" is designed to be a convenient way for licensees to meet the opioid CE requirement, but they can still opt for 2 hours of opioid CE that may better suit their day-to-day practice.

MOTION: Dr. Edwards moved to accept the recommendations as presented. The motion was properly seconded and passed.

Licensure by Endorsement Application and Instructions

Dr. Harp acknowledged that forms are not traditionally presented to the Board for consideration, however, the application includes discretionary information that the Board may wish to weigh in on before the implementation of licensure by endorsement.

Dr. Harp reviewed the Instructions and asked whether an applicant with a medical malpractice history is eligible for licensure by endorsement, or should they apply through traditional pathway.

Ms. Deschenes pointed out that this application and these questions are supposed to be a quick check and any adverse information, regardless of what it is, should be a disqualifying factor for licensure by endorsement.

After discussion, the Committee unanimously agreed to amend the last paragraph on the first page of the Instructions to read as follows:

BASED ON #6 ABOVE, IF YOU HAVE CONVICTIONS, BOARD ACTIONS, IMPAIRMENT, OR MEDICAL MALPRACTICE IN THE LAST TEN YEARS, YOU ARE NOT ELIGIBLE FOR LICENSURE BY ENDORSEMENT. OTHER ADVERSE INFORMATION DISCLOSED IN THE QUESTIONS MAY BE DISQUALIFYING FOR LICENSURE BY ENDORSEMENT, DEPENDING UPON THE NARRATIVE EXPLANATION THAT YOU SUBMIT.

MOTION: Dr. Conklin moved to accept the amendment to the Instructions as discussed. The motion was properly seconded.

Dr. Harp then walked the Committee through the framework of the application.

Ms. Hickey noted that the application did not offer an opportunity for an applicant to provide past or current disciplinary actions.

Dr. Harp stated that gap was created when the regulations were developed. However, the National Practitioner Data Bank (NPDB) should provide that information.

Dr. O'Connor asked if the possibility existed to amend the questions in order to capture disciplinary actions.

Ms. Deschenes stated that question #9 (page 59) could be amended to say past or pending, but Code Section 54.1-2915 gives the Board the authority to look into anything adverse reported in an application.

After discussion, the motion on the floor carried unanimously.

ANNOUNCEMENTS

Dr. Harp announced that there is a new probable cause review form in use. After the meeting adjourns, Dr. Matusiak would like the Board members to review disciplinary cases and become familiar with the new form.

The next meeting of the Committee will be April 5, 2019 at 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 9:49 a.m.

Kevin O'Connor, MD
President, Chair

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary